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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,647	12/21/2001	Lucio Pieroni	AA511	1490

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THE PROCTER & GAMBLE COMPANY  
INTELLECTUAL PROPERTY DIVISION  
WINTON HILL TECHNICAL CENTER - BOX 161  
6110 CENTER HILL AVENUE  
CINCINNATI, OH 45224

EXAMINER
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SPISICH, MARK

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 12/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/027,647

Applicant(s)

PIERONI ET AL.

Examiner

Mark Spisich

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 12-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 12-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 5/2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 25 October 2004 has been entered.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 14 is rejected under 35 U.S.C. 102(b) as being anticipated by deBlois et al (USP 5,978,999), as evidenced by Palaikis (USP 5,507,968). The patent to deBlois discloses a hand-held scrubbing device (10) comprising a waterproof (column 2, lines 11-15) casing housing a motor (18) and battery (16) and an exterior area comprising a number of attachments including a bristled brush (fig 1) and a pad (114) (fig 6). The preferred pad (114) is comprised of polymer fibers such as "SCOTCH-BRITE" (column 7, line 49-52). "SCOTCH-BRITE" is a non-woven material. For evidence of such, such column 7 (lines 55-59) of Palaikis.

### ***Claim Rejections - 35 USC § 103***

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4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1,5-8,12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over deBlois et al (USP 5,978,999) in view of EITHER Stima et al (USP 4,793,019) OR Palaikis (USP 5,507,968). The patent to deBlois discloses a hand-held-scrubbing device (10) comprising a waterproof (column 2, lines 11-15) casing housing a motor (18) and a battery (16) and an exterior area comprising a number of cleaning accessories including a scrubbing pad (114) (column, 46-52) of non-woven material (SCOTCH-BRITE) which is at least indirectly linked with the motor and which is exposed to the external environment when the device is in use. The patent to deBlois discloses the invention substantially as claimed with the exception of the pad (114) being impregnated with a cleaning composition. The patent to Stima discloses a cleaning material (38) of the same type (fibrous scrubbing pad) which may also be a non-woven fabric (column 4, line 8) and which material is provided with a premeasured quantity of a detergent composition (column 3, lines 53-54). The patent to Palaikis also discloses a cleaning material which may include non-woven pads (preferably SCOTCH-BRITE as per column 7, lines 55-59) and which material includes a detergent therein. One of ordinary skill would deem it obvious to include a detergent into the pad (114) of deBlois in view of either Stima or Palaikis so that another source of detergent solution would not be needed. The patent to deBlois discloses the method steps of claims 5 and

6. The embodiment of figs 8A-8B (also column 8, lines 1-36) of deBlois includes an electromechanical motor which provides a reciprocating action (E) to the cleaning surface. The particular frequency of this action (claims 12-13) would be an obvious choice to one of ordinary skill as mere optimization of a prior art device and does not itself define a patentable step.

6. Claims 1-3 and 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Root et al (USP 5,870,790) in view of deBlois et al (USP 5,978,999) and further in view of EITHER Stima et al (USP 4,793,019) OR Palaikis (USP 5,507,968). The patent to Root discloses a hand-held scrubbing device comprising a waterproof casing housing a rechargeable battery (6) and a motor (4) as well as an "exterior area" including various types of scrubbing surfaces joined thereto. The patent to deBlois discloses a similar battery powered scrubbing device which in, addition to brush heads, includes a cleaning attachment (114) in the form of a SCOTCH-BRITE (see column 7, lines 55-59) pad (which is a non-woven material). It would have been obvious to one of ordinary skill to have further provided such a cleaning attachment to the device of Root so that diverse cleaning could be done depending on the article being cleaned. The prior art as combined discloses the invention substantially as claimed with the exception of the detergent. As mentioned above, each of the patents to Stima and Palaikis disclose a detergent in a scrubbing pad. It would have been obvious to have further including such a detergent into the pad (114) of deBlois for the reason(s) set forth above. The patent to Root discloses a charging coil (126) and such mechanisms are conventionally used

in conjunction with a charging stand (claim 2). Root also discloses the "pivoting portion" (claim 3) (see figs 18-19).

7. Claims 1 and 4-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Henriquez et al (USP 5,649,334) in view of deBlois et al (USP 5,978,999) in view of Palaikis (USP 5,507,968). The patent to Henriquez discloses a casing whhc housing a motor assembly (54,58) and batteries (41) and wherein the scrubbing surface (43,45) may be either a brush or a sponge removably secured to the motor. With regard to the casing being waterproof, the patent to deBlois discloses that it is known to provide a waterproof casing for a device used in a wet environment and that one of ordinary skill would deem it obvious to have provided such a casing in Henriquez to prevent damage to the internal components thereof. The patent to Palaikis discloses a number of cleaning materials each which include a detergent therein, these including among others sponge as well as non-woven material sold under the trade name SCOTCH-BRITE (column 7, lines 21-67). Thus, the patent to Palaikis teaching that one of ordinary skill has recognized that any number of cleaning surface may be interchanged with one another (i.e. it suggests that SCOTCH-BRITE could be exchanged for sponge , which is in Henriquez) to suit the particular cleaning to be done and that each of the materials described by Palaikis further include a detergent. It would have been obvious to have further provided as non-woven pad with detergent for the cleaning surface of Henriquez for the reasons suggested by Palaikis. The patent to Henriquez further discloses the faucet connection (18) and rinsing orifice (the valve can be set to only provide for a jest of water) as in claim 4.

8. Claims 1,5-8 and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lancaster (USP 4,299,004) in view of deBlois (USP 5,978,999) and further in view of EITHER Stima et al (USP 4,793,019) OR Palaikis (USP 5,507,968). The patent to Lancaster discloses a hand-held scrubbing device comprising a waterproof casing (14) (column 1, lines 25-32) comprising an interior area housing a motor (20) and an exterior area comprising a scrubbing surface (12) (see figs 4A-4C and column 2, lines 53-64) comprising a non-woven material (eg, felt pad) and wherein the scrubbing surface is at least indirectly removably linked to the motor. The patent to Lancaster discloses the invention substantially as claimed with the exception of the battery. The patent to deBlois discloses a hand-held scrubbing device (10) which includes a motor (18) which is supplied with electrical power by a battery (16). It would have been obvious to one of ordinary skill to have modified the device of Lancaster as taught by deBlois so that the device could be used in areas that are not near an electric outlet. It is further noted that even if applicant argues that felt is somehow woven, the patent to deBlois discloses the use of a non-woven pad (114). With regard to the detergent, each of the patents to Stima and Palaikis discloses various domestic cleaning/scrubbing materials which can each be provided with a quantity of detergent composition. The addition of a detergent to the pads of the prior art, in view of Stima and Palaikis, would be obvious for the reasons stated above. With regard to claim 15, the patent to Lancaster discloses at least two different types (claim 17) (also see column 2, lines 53-64) of interchangeable cleaning surfaces (12) (again, see figs 4A-4C), at least some of which are non-woven (i.e. felt). The patents to Lancaster and

deBlois each discloses a number of different cleaning materials and each of the patents to Stima and Palaikis discloses a number of diverse cleaning materials each including a detergent. The use of a different detergent for each of the different cleaning materials would be obvious to one of ordinary skill to match the particular utility of the selected pad.

9. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lancaster (USP 4,299,004) in view of deBlois et al (USP 5,978,999). The subject matter of claim 14 was essentially addressed in paragraph #8 above, in that the claim 14 recites the non-woven material but not the detergent. A **felt pad**, which is one of the cleaning materials disclosed by Lancaster (column 4, line 18) **is a non-woven material**. The patent to deBlois, for that matter, still discloses a cleaning pad (114) of SCOTCH-BRITE non-woven material and the use of such a material for the pad (12) of Lancaster would be obvious nonetheless as a mere substitution of an art-recognized equivalent cleaning material.

#### ***Response to Arguments***

10. Applicant's arguments filed 25 October 2004 have been fully considered but they are not persuasive. Firstly, the examiner is perfectly aware of what a non-woven fabric or pad is. The term as claimed was interpreted in the broad manner as the claims (and specification) fails to recite that the non-woven **material** was a fabric or equivalent. Nonetheless, the prior art discloses the non-woven material as argued by applicant anyway and the rejections have been amended accordingly. With regard to deBlois and claim 14, applicant's attention is directed to the pad (114) and column 7 (lines 46-52).



The preferred material of the pad (114) is SCOTCH-BRITE, which is a known non-woven material. It is noted that many of the rejections have been modified, especially as pertains to the addition of the detergent. A comment regarding patent to Stima is warranted. Applicant's argument does well beyond the teaching therein that is relied on by the examiner. Stima is relied on solely as teaching the inclusion of a detergent in a scrubbing material of the type of deBlois and not for the particularly clip-on structure disclosed in Stima. With regard to the patent to Lancaster, the fact that it mentions some deficiencies of battery power does not deny the fact that the use of batteries is so well known in the art that this statement does not negate the fact that one of ordinary skill would still deem it obvious. In addition, non-preferred embodiments disclosed by the prior art are still part of the disclosure thereof. A felt pad (which is one of the material of Lancaster) is a non-woven material. Applicant seems to be attempting to limit the definition of this term way beyond the manner in which it was defined in the application as originally filed. The broad interpretation of the term non-woven, does not exclude felt. Any attempt on applicant part to somehow define this term in a manner not contemplated by the application as originally filed is improper. Applicant, in his zeal to merely contradict every assertion of the examiner, has lost sight of the fact that the terms of the claims are defined by their ordinary meaning in the art unless further defined in the specification as originally filed. The term cannot be defined after the fact.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Spisich whose telephone number is (571) 272-1278. The examiner can normally be reached on M-Th (5:30-3:00), Alternate Fri off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J Warden can be reached on (571) 272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mark Spisich  
Primary Examiner  
Art Unit 1744

MS